Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

In re: Robert E. Marzett

Petitioner

v.

On Petition for Mandamus and Prohibition to the United States District Court For the Eastern District of Texas (Sherman Division) Hon. Richard A. Schell, Misc. Action No. 4:08-mc-26

Respondent

PETITION FOR WRIT OF MANDAMUS AND PROHIBITION

Submitted by:

Robert E. Marzett
Sui Juris
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McKinney, Texas
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QUESTION PRESENTED FOR REVIEW

1. CAN THE UNITED STATES DISTRICT COURTS, ENFORCE THE TERRITORIAL LAWS OF THE UNITED STATES IN THE TERRITORY OF A UNION STATE BY USE OF THE POLICE POWER OF THE UNITED STATES?

PARTIES

JudgeRichard A. Schell

United States District Court For

The Eastern District of Texas

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JURISDICIONAL STATEMENT

This Writ of Mandamus and Prohibition is made pursuant to the Constitution of the United States, Art. III, Sec. 2, cl. 2. The extraordinary conditions which make this writ appropriate are that currently a United States District Court Judge is attempting to enforce his territorial orders in the territory of a Union state, by use of the police power of the United States. He has ordered his agents to enter into the territory of a Union state to apprehend me by whatever force necessary and remove me from the territory of the State and into the territory of the United States in order to enforce his void orders against me putting my liberty in jeopardy.

This original petition is being filed in this Court, because Congress has not ordained and established any Art. III, Sec. 1, "Courts of Justice", inferior to the one

Supreme Court, with appellate jurisdiction over the United States District Courts.

After a review of all acts of Congress which created federal courts starting with the Judiciary Act of 1789, there are only three courts which Congress has expressly created using the authority of Art. III. They are the United States District Court of Hawaii[1], the United States District Court of the District of Columbia[2] and the United States Court of International Trade[3].

The United States District Courts are courts created under the authority of Art. IV, Sec. 3, cl. 2. They do not exercise the judicial power of the United States vested only in courts ordained and established under the authority of Art. III[4]. United States District Court judges have their

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[1] See 28 U.S.C. § 91, Legislative Notes

[2] See 28 U.S.C. § 88, Legislative Notes

[3] See 28 U.S.C. § 251(a), Legislative Notes

[4] Williams v. United States, 289 U.S. 553,565-567,581.

compensation diminished, and as such, could not hold a judicial office under the authority of Art. III[5].

The Supreme Court of the United States is the only Art. III Court with supervisory appellate jurisdiction over the United States District Court. Only Art. III courts have the power to adjudicate matters that affect the Constitutional rights (private rights) of Union Citizens against offensive actions of officers of the United States[6].

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[5] United States Constitution, Art. III, Sec. 1: "The judges, both of the supreme and inferior Courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

[6] "The distinction between public rights has not been definitively explained in our precedents.FN22 Nor is it necessary to do so in the present cases, for it suffices to observe that the matter of public rights must at a minimum arise "between the government and others." Ex parte Bakelite Corp., supra, at 451.FN23 In contrast, "the liability of [458 U.S. 50,70] one individual to another under the law as defined," Crowell v. Benson, supra, at 51, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to

These exceptional circumstances make this court's exercise of its discretionary powers the only means for relief available to me.

STATEMENT OF THE CASE

This case involves an attempt by the United States District Court for the Eastern District of Texas (hereafter "USDC"), to enforce one of the territorial acts of the United States (Internal Revenue Code, Subtitle A Income Tax) within the territory of a State. These efforts started in January 2007. I received a letter from the Internal Revenue Service (here after "IRS") which was stuck to the front door of my domicile, in McKinney, Texas, within the territory of the State. It stated the IRS was attempting to

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legislative courts or administrative agencies for their determination. See Atlas Roofing Co. v. Bnson, supra, at 50-51. See also Katz, Federal Legislative Courts, 43 Harv. L. Rev. 894, 917-918 (1930). FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power. Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 83-84 Pipe Line Co., 458 U.S. 83-84

obtain information from me about a purported tax liability. I wrote a letter to the IRS explaining I had no liability. They disagreed and continued to pursue me.

I then wrote several pieces of correspondence asking the IRS to produce legal authority for what they were telling me I was required by law to do. Samples of this correspondence are included in the court record. Still, no one responded to my request, so I refused to cooperate. I then received an IRS Summons, attached to the front door of my domicile. I responded to the Summons by meeting with agents of United States in the territory of the United States, but the meeting yielded no results. I documented that meeting with another letter to the federal agent.

On January 11, 2008, an IRS Summons, was delivered to my front door by an agent of the United States, who identified herself as Mary McKinney. The summons ordered me to leave the territory of Texas and travel into the territory of the United States, so that they could inspect any personal books and records I had. I refused to leave the

territory of the State and travel into the territory of the United States to respond to the Summons.

On July 7, 2008 I received a copy of a Petition To Enforce Internal Revenue Summons issued by Asst. U.S. Attorney Ruth Yeager. She was petitioning the USDC, to issue an Order to Show Cause regarding the summons. Magistrate Judge Don D. Bush issued an Order to Show Cause for me to physically appear before him at the Courthouse within the territory of the United States on Wed, August 27, 2008 at 11:30 a.m. I responded by filing a Petition to Quash the Summons, Affidavit in Support of Petition, Memorandum of Law and various Exhibits, challenging the jurisdiction of the Court. The challenge was made by special appearance so as not to confer general jurisdiction on the court. The basis was not in law, but in equity, and the challenge was no contacts or physical presence within the territorial jurisdiction of the Eastern District of Texas.

U.S. Attorney Yeager was not required by Judge Bush to respond and defend her assertion of jurisdiction against my jurisdictional challenges. Judge Bush DENIED my petition and ordered me to appear before the IRS, within the territory of the United States and bring any personal information in my possession so their agents could examine them for possible liability. The basis for his denial was that if I lived in McKinney, Texas, I was in his judicial district, the Eastern District of Texas.

The order was made in the form of a Report and Recommendation to the District Court Judge Richard A. Schell. I filed Objections to the Recommendations continuing my jurisdictional challenges to which there had been no response. On September 16, 2008, Judge Schell adopted the Recommendations and instructed a U.S. Marshal to deliver the order to me at my domicile in the territory of the State. I did not comply. Several other orders were delivered to my domicile, all ordering me to leave the territory of the State and appear before him in the territory

of the United States. I complied with none of them. I refused to leave the territory of the State.

On February 10, 2009, Judge Schell issued Orders of Civil Contempt and Attachment against me for refusing to appear in the territory of the United States regarding enforcement of the IRS Summonses. He ordered federal Marshals to enter into the territory of a Union state, Texas, and apprehend me, against my will, and transport me out of the territory of Texas and into the territory of the United States.

On February 11, 2009, he issued a second order stating "the United States Marshals are authorized to use whatever force necessary in making entry into Marzett's residence to effect the arrest if the Marshal has reason to believe that Marzett is there at the time." After I became aware of these orders, I fled my home, in order to maintain my freedom. It is from the attempt to enforce these territorial orders, extraterritorially, this petition seeks relief.

ARGUMENT

CAN THE UNITED STATES DISTRICT COURTS, ENFORCE THE TERRITORIAL LAWS OF THE UNITED STATES IN THE TERRITORY OF A STATE BY USE OF THE POLICE POWER OF THE UNITED STATES?

This case represents an attempt by the USDC to enforce the municipal income tax of the United States in the territory of a State. In order to determine whether or not the United States has been delegated this authority in the Constitution; we must examine exactly what authority has been delegated to the United States to exercise in the territories of Union states.

What authority the federal government has to exercise judicial/police power in a Union state was first addressed in the case of United States v. Bevans, 16 U.S. (3 Wheat.) 336 (1818). The issue in this case was did the federal government have the judicial authority to prosecute

an alleged murder committed aboard the Warship, Independence, anchored in the harbor of Boston, Massachusetts. The defense complained that the state had jurisdiction to prosecute this crime and argued that the federal circuit court had no jurisdiction of the crime supposedly committed within the federal government's admiralty jurisdiction. In argument before the Supreme Court, counsel for the United States admitted as much:

> "The exclusive jurisdiction which the United States have in forts and dock yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein. " Id., at 350-51.

In holding that the state of Massachusetts had jurisdiction over this crime, the Court held:

> "What, then, is the extent of jurisdiction which a state possesses? "We answer, without hesitation, the

jurisdiction of a state is co-extensive with its territory: co-extensive with its legislative power."Id., at 386-87,

"The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction. Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings.

"It is observable that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in

describing the judicial power, the framers of our constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction,"Id.. at 388.

The Court in Bevans thus established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of exclusive legislation, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution.

The decision in Bevans was closely followed by decisions made in two state courts and one federal court within the next two years. In Commonwealth v. Young, Brightly, N.P. 302, 309 (Pa. 1818), the Supreme Court of Pennsylvania was presented with the issue of whether lands owned by the United States for which Pennsylvania had never ceded jurisdiction had to be sold pursuant to state law. In deciding that the law of Pennsylvania

exclusively controlled this sale of federal land, the Court held:

> "The legislation and authority of congress is confined to cessions by particular states for the seat of government, and purchases made by consent of the legislature of the state, for the purpose of erecting forts. The legislative power and exclusive jurisdiction remained in the several states, of all territory within their limit, not ceded to, or purchased by, congress, with the assent of the state legislature, to prevent the collision of legislation and authority between the United States and the several states."

A year later, the Supreme Court of New York was presented with the issue of whether the state of New York had jurisdiction over a murder committed at Fort Niagara, a federal fort. In People v. Godfrey, 17 Johns. 225, 233 (NY. 1819), that court held that the fort was subject to the jurisdiction of the State since the lands therefore had not been ceded to the United States:

"To oust this state of its jurisdiction to support and maintain its laws, and to punish crimes, it must be shown that an offense committed within the acknowledged limits of the state, is clearly and exclusively cognizable by the laws and courts of the United States. In the case already cited, Chief Justice Marshall observed, that to bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of any state; it is not (he says,) the offence committed, but the place in which it is committed, which must be out of the jurisdiction of the state. "

The decisional authority upon which this court relied was United States v. Bevans, supra. At about the same time that the New York Supreme Court rendered its opinion in Godfrey, a similar fact situation was before a federal court, the only difference being that the murder was committed on land which had been ceded to the United

States. In United States v. Cornell, 25 Fed.Cas. 646, 648, No. 14,867 (C.C.D.R.I. 1819), the court held that the case fell within federal jurisdiction:

> "But although the United States may well purchase and hold lands for public purposes, within the territorial limits of a state, this does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased. It remains until the State has relinquished its authority over the land either expressly or by necessary implication.
>
> "When therefore a purchase of land for any of these purposes is made by the national government, and the State Legislature has given its consent to the purchase, the land so purchased by the very terms of the constitution ipso facto falls within the exclusive legislation of Congress, and the State jurisdiction is completely ousted. "

These cases establish that the only way the United States can exercise judicial jurisdiction within the exterior limits of a State is that the alleged act constituting the cause for judicial action must occur in territory over which the United States exercises exclusive jurisdiction and outside of the jurisdiction of any State.

The single most important case regarding the subject of federal jurisdiction appears to be Fort Leavenworth R. Co. v. Lowe, 144 US 525, 531, 5 S.Ct. 995 (1885), which sets forth the law on this point fully. Here, the railroad company property which passed through the Fort Leavenworth federal enclave was being subjected to taxation by Kansas, and the company claimed an exemption from state taxation because its property was within federal jurisdiction and outside that of the state. In holding that the railroad company's property could be taxed, the Court carefully explained federal jurisdiction within the States:

> "The consent of the states to the purchase of lands within them for the special purposes named, is,

however, essential, under the constitution, to the transfer to the general government, with the title, of political jurisdiction and dominion. Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the government, is subject to the legislative authority and control of the states equally with the property of private individuals. "

Thus the cases decided within the 19th century clearly disclosed the extent and scope of both State and federal jurisdiction. In essence, these cases, among many others, hold that the jurisdiction of any particular State is co-extensive with its borders or territory, and all persons and property located or found therein are subject to that jurisdiction; this jurisdiction is superior.

Federal jurisdiction results from a conveyance of state jurisdiction to the federal government for lands owned or otherwise possessed by the federal government, and thus federal jurisdiction is extremely limited in nature. There is no federal jurisdiction if there be no grant or cession of jurisdiction by the State to the federal government. Therefore, federal territorial jurisdiction exists only in Washington, D.C., the federal enclaves within the States, and the territories and insular possessions of the United States.

United States Constitution, Art. III, Sec. 1, "The judicial power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may, from time to time, ordain and establish..."

United States Constitution, Art. III, Sec. 2, cl.3,

> "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crime, shall have been committed; but when not committed within any

State, the trial shall be at such place or places as the Congress may by law have directed."

These constitutional provisions establish a framework, for the judicial system of the United States of America. Art. III, Sec. 1, defines the only courts of the United States in which the judicial power is invested. Art. III, Sec. 2, cl. 3, defines in what United States court the trial of crimes will take place. It guarantees to Citizens of the Union, the trial of any crime they are alleged to have committed will take place in the State wherein the crime shall have been committed. It also restricts what little authority Congress has to legislate regarding where a trial will take place. The only time Congress can declare where a trial will take place is when the act constituting the crime takes place outside the territory of any Union state.

United States Constitution, Amendment VI:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been

committed, which district shall have been previously ascertained by law,..."

As the Union grew, Amendment VI was added to include the ever increasing number of federal districts which were being created within the exterior limits of the States. These districts consisted of property ceded to the United States. The creation of these federal districts within States was pursuant to Art. 1, Sec. 8, cl. 17.

Applying these facts to the instant case, the record shows I am domiciled in the territory of Texas, one of the Sovereign members of the Union. The record will also show all judicial process issued from the USDC was delivered to my domicile within the territory of Texas and without the territory of the United States. Civil or criminal process issued from the USDC has no force outside the territorial jurisdiction of the United States. United States territory does not include my home which is situated on the sovereign territory of Texas.

Neither civil nor criminal process from the USDC is valid for any purpose, inside the territorial jurisdiction of Union states. The record shows that my domicile is within the territory of the State, therefore personal jurisdiction could not attach. Subject matter jurisdiction could not attach either because the provisions of the law which the USDC attempts to enforce only apply to the territory of the United States. The lack of jurisdiction, both personal and subject matter, can only result in an order which is void for any purposes within the territory of the State[7].

Furthermore, the USDC was created for territories of the United States under the constitutional authority of Art. IV, Sec. 3, cl. 2[8], "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States..." Courts created under Art. IV, authority cannot

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[7] McNutt v. General Motors Acceptance Corp., 1936, 298 U.S. 178, 80 L.Ed. 1135, 56 S. Ct. 780

[8]Balzac v. Porto Rico, 258 U.S. 298 at 312, 42 S.Ct. 343, 66 L.Ed. 627 (1921)

exercise the judicial power of the United States as expressed in Art. III.

Citizens of the Union are only subject to courts created under Art. III because they are the only courts of the Union invested with the judicial power of the United States. Art. III courts are the only courts capable of adjudicating the constitutional rights (private rights) of State citizens.

Art. IV courts are the private courts of the United States for those who exercise public rights, franchises or privileges offered by the United States. They also resolve legal disputes between the federal government and those who enter into voluntary contracts with the federal government.

If it is the position of the United States that I am subject to these courts, then the United States should have entered into the record, any contract I have voluntarily entered into with the United States, giving my consent to litigate in this court. Entering the contract in the record

would give me the opportunity to challenge the validity of any such contract. This record contains no such document.

The petition which USDC attempts to enforce in the territory of Texas, alleges that I have failed to enter into the territory of the United States and perform this act of producing any personal books or records that I have. I find it ironic the United States is alleging I have violated one of its laws by not entering into its territory and performing some act. It seems to me that I would have to enter into the territory of the United States and perform some act within that territory in order to violate one of its laws.

However one thing I know for sure and the record supports this finding; whatever it is that I did, or did not do, I did or did not do it in the territory of the State. By my refusal to enter into the territory of the United States, no act has been done in the territory of the United States, which would warrant the USDC's attempted exercise of judicial power against me. While I know that I have no requirement to do anything related to Title 26, if it is the

desire of the United States to bring some allegations against me, pursuant to Art. III, Sec. 2, cl.3 and Amendment VI of the Constitution of the United States of America, the trial of the crime must be in a court of the State, wherein the act was committed. If I have committed some act which needs to be adjudicated, I have committed it within the territory of the State and thus entitled to a jury trial in a court in the territory of the State composed of a jury of my peers.

The Constitution of the State of Texas, Art. 1 Sec. 20 states in part: "nor shall any person be transported out of the State for any offence committed in the same." These constitutional provisions protect me from this attempt of the United States to remove me from the territory of the State and transport me into the territory of the United States for the purpose of subjecting me to its judicial process.

If the United States wants to assert jurisdiction over me, they must prove that I am domiciled on property that

has been ceded to the federal government pursuant to an act of the Texas legislature ceding exclusive jurisdiction over the tract of land upon which my domicile sits and acceptance of that exclusive jurisdiction by the United States. (See 40 U.S.C. §§ 3111 & 3112.) Without proof of both these acts by both governments, in the record, it is presumed I am within the territorial jurisdiction of Texas.

"When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction." [Melo v. US, 505 F2d 1026 (8th Cir, 1974]

The record in this case shows there is no constitutionally delegated authority for the United States to maintain this action. This Court should move quickly to declare these orders what they were in fact from the moment they were made, VOID[9].

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[9] "The proposition that the judgment of a court lacking jurisdiction is void traces back to the English Year Books, ... and was made settled law by Lord Coke in the case of the Marshalsea,.. Traditionally [this]

The decision by Judge Schell to dispatch his federal agents out of the territory of the United States and into the territory of Texas in an attempt to apprehend me for the purpose of forcibly removing me from the territory of Texas was without legal authority and a direct attack on my rights protected by the Fourth, Fifth, Sixth, Seventh, and Tenth Amendments of the United States Constitution. Because these acts were carried out in the State, it is also a violation of similar rights protected by the Constitution of Texas including Art. 1 Sections, 1, 2, 9, 10, 19 and 20.

Judge Schell has intentionally attempted to violate these constitutional provisions by sending his federal

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proposition was embodied in the phrase *coram non judice*, 'before a person not a judge' meaning, in effect, that the proceeding in question was not a *judicial* proceeding because lawful judicial authority was not present, and could therefore not yield a judgment. American courts invalidated, or denied recognition to, judgments that violated this common-law principal long before the fourteenth Amendment was adopted..." [Burnham v. Superior Court of Cal., 495 U.S. 604 at 608]

agents into the territory of the State to remove me by the use of the federal police power there from and into the territory of the United States.

Prayer

An examination of every petition, findings, order or proof of service filed in this case proves that each and every order of the USDC is void. They are void because they demonstrate on the face of the documents, the attempts of the USDC to lure me into the territory of the United States to exercise territorial jurisdiction over me and my property, both of which are located in the territory of the State.

The conclusion made by Judge Bush, and adopted by Judge Schell (that I am in their judicial district) is absurd, and without any legal merit. It is not possible for me to be domiciled in the territory of the State and in a federal district created under the authority of Art. I, Sec. 8, cl.17. However, this did not stop these officers of the United

States from conspiring with their federal agents to use every method of deception, coercion, intimidation, force and any other tricks they had in their bag of tricks, to get me to voluntarily enter into the territory of the United States.

I vehemently refused, as was my right. I felt I was safe from the threat of physical force from the United States, as long as I was in the territory of the State. I knew the federal government had no police power in the territory of the State. It would be illegal for officers of the United States to enter into the territory of a State, use force to remove a Citizen of that State, into the territory of the United States without his consent. This is called kidnapping, and if State lines are involved, then federal criminal laws also violated.

I was soon proved wrong. Judge Schell ordered his federal officers to enter into the territory of Texas and "to use whatever force is necessary in making entry into Marzett's residence to effect the arrest if the Marshal has reason to believe that Marzett is there at the time." This

order made it clear; Judge Schell was willing to have his agents break the laws of Texas, in order to have me removed into federal territory, even if it meant using lethal force against me. These void orders pose a clear and present danger to my life, liberty and property.

I've had to flee from my home in order to avoid agents of the United States, stationed outside my property, in the dark and lying in wait for an opportunity to abduct and remove me from the territory of the State and into federal territory. I have been unable to return home for fear of agents of the United States, storming into my property with guns drawn in an attempt to remove me by force and by so doing, put my life and that of my family in jeopardy. These void orders have made me a fugitive, not able to live my life freely and conduct my personal affairs without fear of my government.

This intentional unauthorized use of federal power inside the territory of a State, demonstrate Judge Schell's reckless disregard for the Constitution and laws of the

United States, which he has sworn to "protect and defend." He has made a conscious decision to send federal officers of the United States beyond what he knows is their legal jurisdiction in an attempt to deprive me of my liberty, my property and possibly my life. He should be immediately restrained.

I therefore pray that this court will act swiftly and issue an order prohibiting Judge Schell, from enforcing the Orders of Attachment until this court has an opportunity to review the record in this case and rule on the merits of this petition. I further pray that this Court issue a Mandate to Judge Schell to expunge all orders from the current record and dismiss this action for lack of jurisdiction, in the interest of Justice. For these very important and compelling reasons, this Court should move expeditiously and issue these WRITS OF MANDAMUS AND PROHIBITION and free me from this tyrannical use of federal power, AMEN.

Dated: March 3, 2009

Respectfully submitted:

Robert E. Marzett, Petitioner

Sui Juris

8104 Penobscot Lane

McKinney, Texas

(214) 868-8698

APENDEX

ORDER OF ATTACHMENT FOR CONTEMPT

ORDER REGARDING ORDER OF ATTACHMENT FOR CIVIL CONTEMPT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Petitioner	§	
	§	Misc. Action No.
V.	§	4:08-mc-26
	§	
	§	
ROBERT E. MARZETT,	§	
	§	
Respondent	§	

ORDER OF ATTACHMENT FOR CONTEMPT

On January 26, 2009, this court entered an "Amended to Show Cause Why Respondent Should Not Be Held in Civil Contempt." The Respondent, Robert Marzett, was ordered to appear before this court on February 9, 2009 at 11:00 a.m. to show cause why he should not be held in civil contempt for failure to comply with an earlier court order to

produce documents and records needed to determine the Respondents federal income tax liability for past years. Because the Respondent has once again disobeyed an order of this court by failing to appear at today's hearing, and/or failing to contact this court to explain why he cannot appear, the United States Marshal is ordered to take Respondent, **Robert E. Marzett**, into custody and to bring the Respondent before this court to answer for contempt in not obeying the court's order entered November 6, 2008 to appear with records before Revenue Officer Mary McKinney, or her designated agent, by November 20, 2008, as well as not obeying this court's January 26, 2009 order.

Upon taking the Respondent into custody, the United States Marshal shall immediately notify the court so that the court can set a hearing on this matter as soon as possible.

The United States Marshal is ordered to detain the Respondent in custody until the court discharges him.

IT IS SO ORDERED

SIGNED this the 9th day of February, , 2009.

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RICHARD A. SCHELL

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Petitioner	§	
	§	Misc. Action No.
V.	§	4:08-mc-26
	§	
	§	
ROBERT E. MARZETT,	§	
	§	
Respondent	§	

ORDER REGARDING ORDER OF ATTACHMENT FOR CONTEMPT

On February 9, 2009, this court signed an Order of Attachment for Contempt ordering the United States Marshal to take the Respondent, Robert E. Marzett, into custody. It is further ordered that in executing the arrest of Mr. Marzett, the United States Marshall is authorized to use whatever force is necessary in making entry into Mr.

Marzett's residence to effect the arrest if the Marshall has reason to believe that Marzett is there at the time.

SIGNED this 11th day of February, 2009.

Richard A. Schell

UNITED STATES

DISTRICT JUDGE